

Exhibit H

1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE SOUTHERN DISTRICT OF NEW YORK
4

5 UMB BANK, N.A., as Trustee,)
6)
7 Plaintiff,) No. 1:15-cv-08725
8) (GBD) (RWL)
9 vs.)
10)
11 SANOFI,)
12)
13 Defendant.)
14 -----)
15

16 VIDEOTAPED DEPOSITION OF STEVEN JAMES SLOVICK
17 New York, New York
18 Tuesday, March 26, 2019
19
20
21

22
23 Reported by:
24 KRISTIN KOCH, RPR, RMR, CRR
25 JOB NO. 156496

1 S. Slovic

2 around a product that would make them more
3 comfortable to prescribe the product, give it
4 to more patients and likely increase its sales.

5 Q. Okay. And I am going to come to
6 that in a little bit, but let me just go back
7 to something you said in the beginning of that
8 answer, is that the answer to my question
9 requires a fairly-substantive research and
10 financial calculation.

11 Did you do that substantive research
12 and financial calculation in connection with
13 the work you have done in this case?

14 A. No.

15 Q. Now, in paragraph of 32 of your
16 report, which is on page 8, you discuss a
17 February 2nd, 2011, analyst report by what you
18 describe as a financial firm named MBE
19 Associates.

20 A. Yes.

21 Q. Do you see that?

22 A. Yes.

23 Q. And you conclude based on your
24 review of that report that based on the
25 forecasts that are included, Lemtrada product

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2 coverage at the time, again, it would be in
3 your report?

4 A. It would be, yes.

5 Q. What is MBE Associates?

6 A. They are a financial company that
7 does reports and does provide information to
8 the industry on expectations. They are one of
9 many companies that do forward-looking business
10 analysis into all the different therapeutic
11 areas.

12 Q. Have you worked with MBE Associates
13 before?

14 A. Not directly. I do not know any of
15 the people that work there.

16 Q. Have you relied on any of the work
17 performed by MBE Associates prior to the
18 inclusion of the MBE Associates analyst report
19 in your report?

20 A. No. This was specifically relevant
21 to this case.

22 Q. Are you aware that MBE Associates is
23 actually not a real financial firm at all?

24 A. No.

25 Q. Would it surprise you if I told you

1 S. Slovic

2 that MBE Associates is a group of Rutgers MBA
3 students that submitted the report upon which
4 you rely in connection with an equity analysis
5 competition?

6 A. No, that would actually impress me
7 very much. I think that's great.

8 Q. And that the name MBE Associates
9 refers to the first names of the three Rutgers
10 MBA students, Martin, Brandon and Eric, that
11 would -- that would not surprise you?

12 A. No.

13 Q. Were you aware that the MBE
14 Associates analyst report upon which you rely
15 was student-generated work at the time you
16 relied upon it?

17 A. I was not aware at the time, no.

18 Q. Did you do anything to vet the MBE
19 Associates report before citing it and relying
20 upon it in your report?

21 A. Not -- not beyond Internet research.

22 Q. Do you think it's appropriate to
23 rely on student-generated financial analysis?

24 A. It can be, yes.

25 Q. When can it be?

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2 Q. Is that right? What do you mean by
3 an independent forecast model?

4 A. It's a bottom-up model that we built
5 from scratch utilizing typical modeling
6 characteristics and procedures that we would
7 use for any other projects we were working on.
8 We frequently do build models for clients for
9 launch planning, for business development,
10 in-licensing and out-licensing deals, so it's
11 an area in which we are well established, and
12 we looked very specifically at the situation of
13 the market at the time of launch in discussion,
14 and we looked at the criteria that are required
15 to build a model, we used secondary
16 information, both external as well as internal
17 to Sanofi Genzyme, and utilized the assumptions
18 that were the most likely and supportable that
19 would drive a forecast that we believe to be an
20 accurate forecast of where Lemtrada should have
21 been at the end of the CVR 1 period.

22 Q. Did you believe those assumptions to
23 be reliable and supportable subsequent to the
24 Phase III top-line results being released? In
25 other words -- let me ask a better question.

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2 price elasticity on the macro and micro level.

3 That's the basis of my job.

4 Q. So you believe yourself to be an
5 economist based on your professional experience
6 or your educational experience or both?

7 A. A combination of both, yes.

8 Q. Do you have any economics degrees?

9 A. I do not have a specific economics
10 degree, but, as I mentioned, I have a general
11 master's in business administration.

12 Q. Is there a focus in that MBA on
13 economics?

14 A. No, but my background is in finance
15 and economics. That's what I do.

16 Q. The model that you used to predict
17 Lemtrada's sales, have you ever used that model
18 in other instances to predict sales
19 prospectively?

20 A. This was built from scratch.

21 Q. And used for the first time?

22 A. Yes.

23 Q. Do you believe it to be accurate?

24 A. Yes.

25 Q. Can you provide proof of its

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2 the model, because the model doesn't use any
3 number higher than that.

4 Q. And as far as the 24,000 per vial
5 number that's used here, the support for that
6 is entirely Sanofi's internal market
7 research --

8 A. Yes.

9 Q. -- with respect to the pricing of
10 Lemtrada?

11 A. That's correct.

12 Q. And that's as referenced in your
13 report in Appendix B?

14 A. Yes, based upon what I consider to
15 be a high-quality research project done by a
16 very-highly-reputable firm.

17 MR. AMSEL: Let me mark as Slovic
18 Exhibit 5 an e-mail dated December 12,
19 2013, bearing Bates numbers 21427416
20 through 21427444 with an Excel native file
21 in the back.

22 (Slovick Exhibit 5, e-mail dated
23 December 12, 2013, with attachment, Bates
24 stamped SAN-CVR 021427416 through SAN-CVR
25 021427444, with attachment, marked for

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2 opines on a launch date prior to that, because
3 I know that the discount in the value of the
4 product by launching in December compared to
5 January is huge, 30 or 40 million dollars at
6 least.

7 Q. That's not the question I am asking.
8 Let me just ask my question again.

9 In the scenarios that are
10 articulated in your report, none of them have
11 as an assumption a launch date for Lemtrada in
12 the United States that is earlier than
13 January 1 of 2015?

14 MR. ANDRUS: Objection.

15 Q. Is that correct?

16 MR. ANDRUS: Objection.

17 A. That's correct, because that's when
18 we believe it should have launched.

19 Q. And isn't it, in fact, the case, and
20 you, yourself, have just articulated that you
21 ran the numbers with an earlier launch date,
22 that applying an assumption of a launch date
23 earlier than January 1 of 2015 would result in
24 lower sales than a model that uses as an
25 assumption a launch date of January 1, 2015?